

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER: 99-0379****Sales and Use Tax  
For Tax Years 1996 through 1998**

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**ISSUE****I. Sales and Use Tax—Liability for taxes**

**Authority:** IC 6-8.1-5-1

Taxpayer protests that it is not liable for sales and use taxes.

**STATEMENT OF FACTS**

Taxpayer was an out of state business which operated as a construction contractor in Indiana during the tax period. The Indiana Department of Revenue ("Department") conducted an audit and as a result issued proposed assessments for sales tax and use tax. Taxpayer protested a portion of these assessments on the grounds that either another taxpayer was liable, or that it paid sales tax to another state. Further facts will be supplied as necessary.

**I. Sales and Use Tax—Liability for taxes****DISCUSSION**

Taxpayer operated a construction contracting business in Indiana during the tax period at issue. The Department conducted an audit and issued proposed assessments for sales tax and use tax. Taxpayer made a broad protest of the assessments on the grounds that it paid sales tax to other states or other taxpayers should be liable for the taxes. Despite repeated attempts by the Department to get a detailed protest and supporting documentation, none was forthcoming. When an administrative hearing was scheduled, the hearing officer was informed that taxpayer no longer wanted a hearing, that taxpayer was going out of business and that a fire had destroyed most of taxpayer's records.

The relevant statute is IC 6-8.1-5-1(b), which states in relevant part:

The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

In this case, taxpayer has not made anything more than a general protest, and has not provided any documentation supporting its position. Such documentation could have been provided at any time during the audit or when the protest was initiated. That the documentation may have been destroyed before the administrative hearing is not persuasive. Taxpayer has not met its burden of proving the proposed assessments wrong, as provided in IC 6-8.1-5-1(b).

**FINDING**

Taxpayer's protest is denied.

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